

105TH CONGRESS
1ST SESSION

H. R. 1847

IN THE SENATE OF THE UNITED STATES

JULY 9, 1997

Received; read twice and referred to the Committee on the Judiciary

AN ACT

To improve the criminal law relating to fraud against
consumers.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Telemarketing Fraud
3 Prevention Act of 1997”.

4 **SEC. 2. FORFEITURE OF FRAUD PROCEEDS.**

5 Section 982(a) of title 18, United States Code, is
6 amended by adding at the end the following:

7 “(8) The Court, in sentencing a defendant for an of-
8 fense under section 2326, shall order that the defendant
9 forfeit to the United States any real or personal prop-
10 erty—

11 “(A) used or intended to be used to commit or
12 to promote the commission of such offense, if the
13 court in its discretion so determines, taking into con-
14 sideration the nature, scope, and proportionality of
15 the use of the property in the offense; and

16 “(B) constituting, derived from, or traceable to
17 the gross proceeds that the defendant obtained di-
18 rectly or indirectly as a result of the offense.”.

19 **SEC. 3. SENTENCING GUIDELINES CHANGES.**

20 Pursuant to its authority under section 994(p) of title
21 28, United States Code, the United States Sentencing
22 Commission shall review and amend the sentencing guide-
23 lines to provide a sentencing enhancement for any offense
24 listed in section 2326 of title 18, United States Code—

1 (1) by at least 4 levels if the circumstances au-
2 thorizing an additional term of imprisonment under
3 section 2326(1) are present; and

4 (2) by at least 8 levels if the circumstances au-
5 thorizing an additional term of imprisonment under
6 section 2326(2) are present.

7 **SEC. 4. INCREASED PUNISHMENT FOR USE OF FOREIGN**
8 **LOCATION TO EVADE PROSECUTION.**

9 Pursuant to its authority under section 994(p) of title
10 28, United States Code, the United States Sentencing
11 Commission shall amend the sentencing guidelines to in-
12 crease the offense level for any fraud offense by at least
13 2 levels if the defendant conducted activities to further
14 the fraud from a foreign country.

15 **SEC. 5. SENTENCING COMMISSION DUTIES.**

16 The Sentencing Commission shall ensure that the
17 sentences, guidelines, and policy statements for offenders
18 convicted of offenses described in sections 3 and 4 are ap-
19 propriately severe and reasonably consistent with other
20 relevant directives and with other guidelines.

21 **SEC. 6. CLARIFICATION OF ENHANCEMENT OF PENALTIES.**

22 Section 2327(a) of title 18, United States Code, is
23 amended by striking “under this chapter” and inserting
24 “for which an enhanced penalty is provided under section
25 2326 of this title”.

1 **SEC. 7. ADDITION OF CONSPIRACY OFFENSES TO SECTION**
2 **2326 ENHANCEMENT.**

3 Section 2326 of title 18, United States Code, is
4 amended by inserting “, or a conspiracy to commit such
5 an offense,” after “or 1344”.

Passed the House of Representatives July 8, 1997.

Attest:

ROBIN H. CARLE,

Clerk.